

Senate General Welfare Committee Amendment

AMENDMENT NO. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 3189*

House Bill No. 3185

by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 62, is amended by deleting Chapter 38 in its entirety and by substituting Sections 2 through 11 of this act as new Chapter 38.

SECTION 2. As used in this chapter, unless the context otherwise requires:

(1) "Antibacterial solution" means any solution used to retard the growth of bacteria approved for the application to human skin and includes all products so labeled;

(2) "Client" means any person desiring to receive a tattoo;

(3) "Disinfectant" means a solution intended to destroy or inactivate specific viruses, bacteria or fungi on inanimate surfaces;

(4) "Germicidal solution" means any solution which destroys germs and is so labeled;

(5) "Sanitary" means clean and free of agents of infection;

(6) "Single use" means an item is used one (1) time on one (1) client and then is properly disposed of by appropriate measures;

(7) "Sterilization" means holding in an autoclave for twenty (20) minutes, at fifteen (15) pounds pressure, and at a temperature of two hundred sixty degrees (260°) Fahrenheit or one hundred twenty-seven degrees (127°) Celsius;

(8) "Tattoo" means any method of placing designs, letters, figures, symbols, cosmetics or any other marks under the skin of a person with ink or color by the aid of needles or instruments;

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(9) "Tattoo artist" mean any person, regardless of age, who engages in the practice/service of tattooing for consideration regardless of the type of tattoo or area to be tattooed;

(10) "Tattoo artist registration" means the issuance of a state license authorizing the person named therein to engage in the practice/service of tattooing in the state of Tennessee after fulfilling the requirements in this act;

(11) "Tattoo operator" means any person who controls, operates, conducts or manages any tattoo studio, whether actually engaging in tattooing or not;

(12) "Tattoo studio" means any room or space where tattooing is practiced or where the service of tattooing is conducted;

(13) "Tattoo studio certificate" means the issuance of a written license, issued by the local county health department, to a tattoo studio stating that such studio, after inspection, was found to be compliance with this act; and

(14) "Universal precautions" means that all blood and body fluids are treated as to contain all bloodborne pathogens and taking proper precautions to prevent the spread of any bloodborne pathogens.

SECTION 3.

(a) No person shall operate a tattoo studio unless such person is registered with the state as an operator or as an artist and the studio has been issued a studio certificate by the local health department. No studio certificate shall be issued or renewed unless the studio has been inspected and found to be in compliance by the

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local health department. A fee of fifty dollars (\$50.00) shall be submitted annually to the local health department along with an application for renewal of a studio certificate.

(b) A studio certificate shall expire on December 31 of each year.

(c) The local health department shall inspect each tattoo studio a minimum of two (2) times per year to ensure compliance with this act.

(d) Tattoo studio violations shall be classified into two (2) categories: critical and minor. Tattoo studios found to have critical violations shall be subject to a one hundred dollar (\$100) civil penalty and, if deemed necessary, the immediate shutdown of such tattoo studio. Re-inspection for a critical violation shall be within seven (7) days, at which time the tattoo studio may be re-opened if such studio is found in to be in compliance. If three (3) critical violations are committed within the period of one (1) year (calendar or otherwise) the tattoo studio's certificate may be revoked.

(e) Minor violations shall mean all other violations of this act. Tattoo studios with minor violations shall be subject to a twenty-five dollar (\$25.00) civil penalty, and shall have fourteen (14) days to address and correct such violations. Re-inspection for a minor violation shall be at the discretion of the local health department.

(f) A violation may be reviewed by the local health department upon written request of the person or studio committing such violation. A request for review by the local health department shall be made in writing within ten (10) days of receipt of notification of such violation. The local health department should respond to this review within fourteen (14) days.

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(g) Critical violations shall include the following:

- (1) Autoclave is not in good working order;
- (2) Tubes and needles are not sterilized in an approved manner;
- (3) Work room is not equipped as required or is not stocked;
- (4) Prohibited reuse of single use articles;
- (5) Sterile instruments are not properly handled; or
- (6) Reusable instruments are not handled properly.

(h) In all instances of violations the local health department shall give written notice to the tattoo operator specifying the violations and measures that are necessary to correct such violations. A copy of this notice/inspection sheet shall be signed by the studio and retained by the local health department. Payment of all registrations, fees, or fines shall be payable to the local health department having jurisdiction for administrative costs.

(i) Any studio which is engaged in the practice of tattooing upon the effective date of this act shall submit a application for a license within thirty (30) days of the effective date of this act.

SECTION 4. (a) Before a permit to operate a tattoo establishment is granted, the local health department or its duly authorized agent shall inspect the premises in which the business is to be conducted. If the condition of the premises or its equipment does not conform to the requirements of this act, the local health department shall refuse

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to issue a permit. If the tattoo establishment conforms to the requirements of this act, the local health department or its duly authorized agent shall issue the permit requested.

(b) Each studio where tattoos are administered shall provide a work area separate from any observers present. No smoking or eating shall take place in the tattoo work area. Clients shall be tattooed only while in the tattoo work area.

(c) Adequate restroom facilities for clients and operators shall be provided within each studio.

(d) A sink with hot and cold running water for handwashing and sterilization, other than a bathroom sink, shall be provided. Sinks shall be equipped with an antibacterial solution and single use towels.

(e) All waste products shall be disposed in accordance with universal precaution guidelines. All needles or other sharp instruments shall be segregated from other wastes and placed in an approved sharps container.

(f) All furniture and fixtures necessary to the practice of tattooing shall be provided and constructed to ensure adequate cleaning and sanitation. Adequate lighting and ventilation shall be provided in the tattoo studio. Equipment necessary to provide for proper aseptic techniques and sterilization shall be provided, including an autoclave in good repair. Floors, ceilings, walls and restrooms shall be maintained in a sanitary condition. Studio and equipment shall be maintained in good repair and the premises shall be kept clean, neat and free of litter and rubbish.

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SECTION 5. (a) No person shall engage in the practice of tattooing for consideration or act as a tattoo artist unless such person has registered as a tattoo artist with the department of health. A statewide tattoo artist license shall be issued and is transferable, within the state of Tennessee, to any studio holding a current studio certificate issued by a local health department. The department of health may, at its option, direct the local health department to act in its behalf in the application, examination, collection of funds, etc., concerning tattoo artist registration.

(b) No holder of a studio certificate issued under this act shall allow a tattoo artist to engage in tattooing unless the tattoo artist:

- (1) Currently holds a tattoo artist registration;
- (2) Has applied for a fourteen (14) day temporary registration; or
- (3) Has an apprentice artist license.

(c) Any person desiring to engage in the practice of tattooing shall submit an application to the department of health or its designee. There shall be three (3) types of tattoo artist licenses: tattoo artist, apprentice artist, and temporary artist. All tattoo artist and apprentice artist registrations shall expire on December 31 of each year. A fee of fifty dollars (\$50.00) shall be submitted to the department of health for each individual artist license.

(d) All tattooing shall be under the auspices of a tattoo studio holding a current studio certificate issued by the local health department.

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(e) Each tattoo operator or tattoo artist shall, before receiving a permit to operate a tattoo establishment or to apply a tattoo, undergo a training program to include:

(A) The Alliance of Professional Tattooist course in sterilization;

(B) A local or state health department program;

(C) A course approved by the local health department in methods and techniques for the proper sterilization of instruments and materials used in tattooing; or

(D) Present acceptable evidence of having satisfactorily completed a course of instruction in sterilization techniques and methods from a college/medical sterilization course.

(f) The tattoo operator and/or tattoo artist shall be required to take and pass an examination concerning the provisions of this act before a tattoo artist permit shall be issued. Such examination shall be a written exam prescribed by the local health department. After passing such examination and complying with the other provisions of this act, a license shall be issued.

(g) In order to receive a tattoo artist license, the tattooist shall be trained in the profession of tattooing to include sterilization methods in a certified shop for at least one (1) year, under a currently licensed tattoo artist who has been certified and operating in compliance with applicable laws in Tennessee for not less than three (3) years. Out-of-state tattoo artists must be able to show proof of at least two (2) years experience as a professional tattoo artist in another state (business licenses, tax records etc., may be

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used to show proof of prior work). Artists currently in business in Tennessee upon the effective date of this act shall be exempt from the provisions of this subsection.

(h) An apprentice artist license shall be issued if an artist is unable to comply with any of the provisions of this act. An artist shall remain an apprentice artist until all qualifications or provisions of this act have been met.

(i) A tattoo operator shall, unless registered as a tattoo artist, register with the department of health and shall comply with all provisions of this act, except for subsection (g). The fee for such registration shall be twenty-five dollars (\$25.00), payable to the department of health.

(j) To renew a license as a tattoo artist an applicant shall submit a fee of fifty dollars (\$50.00) before the expiration of such license.

(k) A penalty of twenty-five dollars (\$25.00) shall be imposed upon each late renewal of licensure. No late renewal of licensure shall be accepted more than one (1) year after the expiration of such licensure.

(l) An applicant whose license has expired for more than one (1) year must re-apply for licensure pursuant to subsection (g).

SECTION 6. (a) A registered tattoo business may set up at temporary locations other than a tattoo studio (e.g. tattoo conventions), with the written approval of the local health department, for a period not to exceed ten (10) days, provided that each artist not previously registered with the department of health shall register and pay a fee of fifty dollars (\$50.00) to the department of health.

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(b) Temporary facilities (e.g., tattoo conventions) shall be held to the same sanitary standards as those required of tattoo studios. Temporary facility permits shall be issued by the local health department, to include:

- (1) An area where tattooing can be performed in a limited access location;
 - (2) Adequate sterilization equipment supplied;
 - (3) Waste receptacles and sharps containers supplied;
 - (4) Individual containers of water for each client in single use rinse cups;
- and
- (5) Disinfectant sprays at each tattoo artist's work area.

(c) A temporary tattoo artist registration may be issued for not more than fourteen (14) days. The holder of the studio certificate shall also sign for the temporary license from the department of health and all tattooing shall be under the auspices of the studio certificate holder and in compliance with the provisions of this act. Artists may apply tattoos if a copy of the state application and a receipt for the fifty dollar (\$50.00) fee is on display at the studio. The sterilization course, written examination and work experience shall be waived for such temporary permit. A temporary license is not transferable nor may it be renewed.

SECTION 7. It is the duty of the owner or operator of a tattoo establishment to post the current studio certificate permit in a conspicuous place where it may be readily observed by the public.

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SECTION 8. (a) A record showing the date of a client's visit, the client's name, with his/her signature, address and age, design of the tattoo, its location on the client's body and the name of the tattoo artist who performed the service shall be maintained by tattoo studios for two (2) years.

(b) A minor sixteen (16) years or older may be tattooed with the written consent of the parent or legal guardian to cover up an existing tattoo. A parent or legal guardian of such minor must be present during the procedure.

(c) Records shall be entered in ink and shall be made available to the local health department upon request, at a reasonable time, for examination.

(d) Clients receiving a tattoo shall attest to the fact that they are not under the influence of drugs or alcohol.

(e) Printed instructions on the care of skin shall be given to each client after tattooing and a copy of such instructions shall be posted in a conspicuous place in the tattoo studio.

(f) Except as provided in subsection (b), it is a Class C misdemeanor to tattoo a person under eighteen (18) years of age.

SECTION 9. (a) Any person who does not obtain a permit as required in Section 3 of this act or whose permit has been revoked or suspended and who continues to tattoo or operate a tattoo establishment commits a Class B misdemeanor punishable only by a fine of five hundred dollars (\$500).

SECTION 10. (a) Each tattoo artist shall use a single use lap cloth.

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(b) Each tattoo artist shall thoroughly wash his/her hands with a antibacterial solution and hot running water prior to and after administering any tattoo.

(c) Disposable, latex examination gloves shall be worn by a tattoo artist at all times while administering any tattoo. Gloves shall be changed and properly disposed of each time there is an interruption in the application of a tattoo, or whenever their ability to function as a barrier is compromised.

(d) Only single use supplies (or sterilized equipment) may be used to apply a tattoo and shall be disposed of after each tattoo. This subsection includes single use disposable razors; single use towels or wipes; lubricants from a collapsible tube and single use paper stencils or plastic stencils soaked in a germicidal solution. If the design is drawn directly onto the skin it shall be applied only with a single use article. Dyes or pigments should be manufactured for the sole purpose of tattooing. Single use or individual portions of dye and ink pots or trays shall be used. After tattooing, single use items, dyes, and containers shall be discarded and the tattoo area disinfected.

(e) All tubes and needles should be sealed for individual client use in autoclave bags with an autoclave indicator and date of sterilization clearly visible. Autoclave bags may be stored for use for up to one (1) year. Autoclave sterilization minimum standards shall mean holding in an autoclave for twenty (20) minutes, at fifteen (15) pounds pressure, at a temperature of two hundred sixty degrees (260°) Fahrenheit or one hundred twenty-seven degrees (127°) Celsius. After tattooing, used non-disposable instruments such as tubes shall be kept in a separate, puncture resistant container until

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properly cleaned, disinfected and sterilized using universal precautions and recognized medical methods.

(f) Each tattoo shall be bandaged, when applicable, before leaving the tattoo studio.

(g) No tattoo artist shall remove or attempt to remove any tattoo.

SECTION 11.

(a) This act shall supersede all county and local regulations concerning tattooing to give uniformity in compliance within the state of Tennessee.

(b) This act shall not apply to any physician or any person under the supervision of a physician who is licensed to practice medicine in the state of Tennessee.

SECTION 12. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 13. This act shall take effect October 1, 1996, the public welfare requiring it.